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10/665,333	09/18/2003	Robert Fransdonk	5782P029	5440
7590	12/08/2010		EXAMINER	
Andre L. Marais SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A. 121 South Eighth Street Minneapolis, MN 55402			WIN, AUNG T	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/665,333	FRANSDONK, ROBERT	
	<b>Examiner</b>	<b>Art Unit</b>	
	AUNG WIN	2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 26 August 2010.

2a) This action is **FINAL**.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-33 and 35-37 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-33 and 35-37 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date <u>08/26/2010</u> .	6) <input type="checkbox"/> Other: _____ .

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1, 17, 28, 35, 36 & 37 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Examiner cannot find any support in the disclosure to Claims' limitation "the delivery of the content to the content consumer is conditional upon there being more than a preset amount of delivery time, the present amount of delivery time being less than the amount of delivery time available to the content consumer" as cited in Claim 1, 35 and 37 or Claims' limitation "the remaining available delivery time exceeds a preset amount of time, the preset amount of time being less than the reaming available delivery time" as recited in claim 17, 28 & 36. Examiner requests the applicant specify the drawing, page, column or line number, which support the claim limitation. Applicant is required to cancel the new matter in the reply to this Office Action.

### ***Response to Arguments***

Applicant's arguments filed on 08/26/2010 with respective to claims 1, 35, 37, 17, 28 & 36 have been fully considered but they are not persuasive. Applicant argues that modified method and apparatus does not teach according to the claims because **Pruss does not teach** amended claims limitations "the delivery of the content to the content consumer is conditional upon there being more than a preset amount of delivery time, the present amount of delivery time being less than the amount of delivery time available to the content consumer" as recited in claims 1, 35, 37 or

Recited limitations analogous to claims 1, 35 37 i.e., "the remaining available delivery time exceeds a preset amount of time, the preset amount of time being less than the reaming available delivery time" as recited in claims 17, 28 and 36 [applicant's remarks]. Examiner respectfully disagrees.

Pruss teaches access management system and method based on **real time interactive time based service** i.e., authorization server **determines in real time** whether the user's stored prepaid account contain sufficient remaining prepaid time or credit value to cover **the timed based interactive service in real time** [0007, 0067 & 0068]. Therefore, it would have been obvious to one of ordinary skilled in the art at the time invention was made would realize that Pruss teaching of **time-based interactive service authorization in real time** as stated above read on "time required for interactive service being less than the delivery of the content to consumer is conditional upon there being more than a preset amount of delivery time, the preset amount of delivery time being less than the amount of delivery time available to the content consumer as claimed" [0007, 0067 & 0068] (also see applicant remarks)] because

user's authorized time is monitored in real time for providing real time interactive service. Therefore, applicant's arguments are not persuasive.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negative by the manner in which the invention was made.

1. In light of 112 rejections stated above, Claims 1, 3-5, 7-17, 19-33, 35-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hans et al (US20020120577A1) in view of Pruss et al. (US20040193513A1), further in view of Seago et al. (US20040054923A1).

1.1 Regarding claims 1 & 35, Hans discloses media delivery network, which includes:

a media server to store content to deliver to a content consumer upon demand [content provider server: (Figure 2) (remote content provider 16: Figures 1 & 3) (Figure 5)];

a digital rights server to store content consumer rights defining access rights of a content consumer with respect to the content [Content Management server

implemented with rights manager 40, access manager 42, royalty manager 44, user profile storage manager 46 to store content consumer rights defining access rights of a content consumer with respect to content: paragraph 0027];

wherein the delivery of the content to the content consumer is monitored according to consumer usage patterns by the digital rights server and the access rights of the content consumer **are updated** in response to content usage patterns during which the content was delivered to the content consumer [updating the user's personal profile according to user's content usage patterns: paragraph 0029].

Thus, Hans' digital rights server is configured to determine the user's rights in order to either authorize or deny the transmission of the requested content from remote content server to the user and further configured to update user's rights in response to a usage patterns i.e., Hans' digital rights server update the user access rights during which the content was delivered to the content consumer [0027-0029]. Hans's digital content access management system and method does not explicitly teach that stored consumer rights include an amount of delivery time available to the content consumer and digital right server determines delivery of content to the content consumer is based on preset amount of delivery time and the amount of delivery time available to the content consumer according to the claim.

Pruss et al. teaches access management system and method based on **real time interactive time based service** i.e., authorization server **determines in real time** whether the user's stored prepaid account contain sufficient remaining prepaid time or credit value to cover to cover **the timed based interactive service in real time** [0007,

0067 & 0068] which read on claim's limitation of "delivery of the content to consumer is conditional upon there being more than a preset amount of delivery time, the preset amount of delivery time being less than the amount of delivery time available to the content consumer" [0007, 0067 & 0068] because providing time-based interactive service is monitored in real time.

Therefore, it would have been obvious to one of ordinary skilled in the art at the time of invention of made to modify Han's access management system and network according to pay-per-duration service according to Pruss et al. so that stored content consumer rights include an amount of delivery time available to consumer and digital right server determines delivery of content to the content consumer based on claimed comparison. One of ordinary skilled in the art at the time of invention of made to facilitate the pay-per-duration service for enhanced content delivery service and system.

The network as modified above does not explicitly disclose a digital rights server to store content owner rights defining access policies to the content as established by a content owner although modified digital right server is implemented with royalty manager to determine prescribed royalty fees in determining the delivery of the content.

Seago discloses wireless content delivery network 100 [Figure 1] comprising content provisioning system with data storage server to store content consumer rights defining access rights of a content consumer with respect to content [Client rights profiles 158: Figure 1] and content owner rights defining access policies to the content as established by content provider [Access/Rights Rules Sets 160: Figure 1]. Seago also teaches that access rights of the content consumer are updated when requested

content is delivered to the content consumer as necessary [content action is performed at 276 followed by an updating as necessary of the client rights profiles: 0042].

Therefore, it would have been obvious to one of ordinary skilled in the art at the time of invention of made to further modify digital right server to enable the content owner to define access policies and to store the content owner rights as taught by Seago in provisioning the media delivery network with media server and digital rights server as claimed. One of ordinary skilled in the art at the time of invention of made to do this to provide improved content delivery network with improved digital right managements to content by giving content owner the ability to define access policies in providing content.

1.2 As regards to analogous claim 17, it would have been obvious to one of ordinary skilled in the art that the modified network according to claim 1 would teach claim 17 streaming media pay-per-duration method because modified network execute streaming media pay-per-duration method substantially close to the pay-per-duration method executed by claim 1 network.

1.3 Claim 28 is also rejected for the same reason as stated above in Claims 1 & 17 rejection because claimed monitoring method is substantially close to corresponding method utilized in network as claimed in claim 1. It would have been obvious to one of ordinary skilled in the art that the modified method and network would teach monitoring method with signaling sequences and session data as claimed because the modified

network according to claims 1 & 17 is configured to provide pay-per-duration streaming media delivery method based on user request in which user can interactively request the streaming data. It should also be noted that claimed streaming media access based on request i.e., session request via known session signaling protocols are well known to one of ordinary skilled in the art at the time of invention of made and expected in any streaming media network that allow the user to interactively request the streaming media.

1.4 As regards to analogous Claim 36, it would have been obvious to one of ordinary skilled in the art that the modified network and method would teach sequence of instructions for executing steps according to the claim 36 because modified network and method according to claim 1 is executed by computing devices and executed steps is substantially close to corresponding executed steps of claim 36.

1.5 As regards to Claims 3, 20 & 31, it would have been obvious to one of ordinary skilled in the art that modified network and method would teach according to Claims 3, 20 & 31 because modified network teaches a plurality of content providers [Seago: Content providers 190: Figure 1].

1.6 As regards to Claims 4, 5, 7, 8, 19, 21, 22, 29, 30, 32 & 33, it would have been obvious to one of ordinary skilled in the art that modified network and method would teach according to Claims 4, 7, 8, 19, 22, 29, 30 & 33 because modified network

teaches pay-per-duration access service for streaming media sessions in which users are authorized for streaming media based on stored and updated user's rights [see claim 1 rejection].

1.7 As regards to Claims 9, 10, 24 & 25, it would have been obvious to one of ordinary skilled in the art that the modified network teaches communication between media server and digital rights server for session data (i.e., access rights for streaming media session) and further selectively authorizes streaming of the media based on the session data as claimed (i.e., delivering streaming media based on authorized user access rights) as claimed because modified network teaches provisioning pay-per-duration streaming media service [see claims 1 rejection].

1.8 As regards to Claims 11, 12, 13 & 26, it would have been obvious that modified network teaches claimed digital right agent because content delivery is based on owner rights defined by content owner (second access operation) and content consumer rights purchased from service provider by content consumer [see modified network according to claims 1 & 17 in view of Seago: (Rights manager 170, Rights Granted Mechanism and Usage & Rights Reporting Mechanism 168 of Seago)].

1.9 As regards to Claim 14, it would have been obvious to one of ordinary skilled in the art that modified network teaches updating rights as claimed because modified network allow the content consumer to update their rights [Seago: 0025].

1.10 As regards to Claim 15, Official notice is taken that storing and retrieving content consumer rights at/from particular server/location in the system would have been obvious matter of design choice and does not constitute patentable distinction from modified system and method. It would have been obvious to one of ordinary skilled in the art at the time invention was made would realize that numerous arrangement and changes can be made to the modified method and system without departing from the scope of the pay-per-duration invention method and should not be limited to the presently particular arrangement stated herein and may be applied/stored in any arrangement based on design preferences.

1.11 As regards to Claims 16 & 23, it would have been obvious to one of ordinary skill in the art the modified network and method teaches communication between media server and digital rights server as claimed because modified network teaches provisioning user authorized time duration (i.e., pay per duration service: see claim 1 rejection) for accessing streaming data for only authorized time based on modified digital right server and content media server.

1.12 As regards to Claim 27, it would have been obvious to one of ordinary skilled in the art that modified network teaches claimed associating step in order for the modified network to provide content delivery service based on content consumer access rights [see claim 17 rejection].

1.13 As regards to claim 37, it would have been obvious to one of ordinary skilled in the art that the modified network and method as stated above in claim 1 would teach claim 37 streaming media pay-per-duration method because modified network executes streaming media pay-per-duration method substantially close to the claim 17 method [also see reauthorization consumer following exhausted delivery time as disclosed in Pruss et al.:]

2. Claims 2, 18 & 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hans et al (US20020120577A1) in view of Pruss et al. (US20040193513A1), further in view of Seago et al. (US20040054923A1) and Lagerweij et al. (US20030217163A1).

2.1 As regards to Claims 2 & 18, modified method and system discloses claims 1 and 17 but does not explicitly teach interactive streaming media delivery and control method according to claims 1 and 17. Lagerweij et al. teaches that deliver the streaming media based on interactive user commands [Lagerweij et al: (user is allowed to stop, pause and restart the media stream: 0040]. Therefore, it would have been obvious to one of ordinary skilled in the art at the time invention was made to further modify the method and network to facilitate monitoring the streaming media delivery based on interactive user commands as taught by Lagerweij et al. so that timing of the content delivery is at least paused according to claims 2 & 18. One of ordinary skilled in

the art at the time invention was made would have been motivated to further modify the method and network for enhanced streaming media service.

2.2 As regards to claim 6, the network as modified above teaches the claim 1 network for delivering streaming media but does not explicitly teach that streaming media delivery is denied after a certain position within the media has been reached.

Lagerweij teaches the method and network of delivering streaming media and further teaches claimed limitation i.e., streaming media delivery is denied after a certain position within the media has been reached [(a certain position i.e., predefined point in time within the media has been reached: 0040, Lines 24-55)].

Therefore, it would have been obvious to one of ordinary skilled in the art at the time when invention was made to further modify the network as taught by Lagerweij to control the delivery of the streaming media up to a certain position as claimed. One of ordinary skilled in the art at the time of invention of made to do this to enhance streaming media service with complex access rights rules.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to AUNG T. WIN whose telephone number is (571)272-7549. The examiner can normally be reached on 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Eisen can be reached on (571) 272-7687. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

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/AUNG WIN/  
Examiner, Art Unit 2617  
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